

**PROPOSED REGULATION OF
THE STATE BOARD OF HEALTH**

LCB File No. R086-08

March 10, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-14, NRS 202.2483 and 439.200.

A REGULATION relating to tobacco; requiring a proprietor of an indoor place of employment to establish policies and implement procedures prohibiting anyone on the premises from smoking tobacco in any form; establishing the visual requirements for no-smoking signs; requiring smoke-free access to restrooms under certain circumstances; requiring approval by the health authority before certain modifications to an existing restaurant take place; providing for the suspension or revocation of a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate for noncompliance; establishing procedures for the review of actions taken by the health authority; and providing other matters properly relating thereto.

Section 1. Chapter 439 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 14, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Health authority” has the meaning ascribed to it in NRS 202.2485.*

Sec. 4. *“Place of employment” has the meaning ascribed to it in NRS 202.2483.*

Sec. 5. *“Proprietor of an indoor place of employment” means the owner, operator, manager or other person in control of an indoor place of employment.*

Sec. 6. *“Restaurant” has the meaning ascribed to it in NRS 202.2483.*

Sec. 7. *“Stand-alone bar, tavern or saloon” has the meaning ascribed to it in NRS 202.2483.*

Sec. 8. 1. *In addition to the requirements of NRS 202.2483, a proprietor of an indoor place of employment shall establish policies and implement procedures prohibiting anyone on the premises of the proprietor’s indoor place of employment from smoking tobacco in any form.*

2. *The policies and procedures required pursuant to subsection 1 must, without limitation:*

(a) Require the proprietor of an indoor place of employment and the proprietor’s employees to request that any person found smoking tobacco in any form within the indoor place of employment stop smoking immediately;

(b) Prohibit the proprietor of an indoor place of employment and the proprietor’s employees from providing any ashtrays or other smoking paraphernalia to any person within the indoor place of employment pursuant to NRS 202.2483;

(c) Require the proprietor of an indoor place of employment and the proprietor’s employees to remove all ashtrays and other smoking paraphernalia from the indoor place of employment; and

(d) If the indoor place of employment includes a casino as defined in NRS 202.2483, require “No Smoking” signs or the international “No Smoking” symbol to be posted at each entrance within the casino where loitering by minors is not prohibited pursuant to NRS 463.350.

3. *As used in this section:*

(a) “Ashtray” means any receptacle or container used for collecting the ashes or residue of burning tobacco or for disposing of smoking materials, including, without limitation, cigarettes and cigars.

(b) “Smoking paraphernalia” includes, without limitation, matches, lighters, pipes, cigarette papers or any other device designed or used for burning tobacco or collecting its residue.

Sec. 9. *A sign posted pursuant to the requirements of NRS 202.2483 must:*

1. Be posted at a height and location which is easily seen by a person entering the public place or indoor place of employment;

2. For “No Smoking” signs, have letters at least 2 inches in height and for the international “No Smoking” symbol, have the international symbol at least 6 inches in diameter; and

3. Have a contrasting background.

Sec. 10. *A customer or an employee of an indoor place of employment must be provided smoke-free access to the restroom unless:*

1. The restroom is under the control of a different business; or

2. Access to the restroom is through an area in a casino where smoking is not prohibited.

Sec. 11. *Nothing in these regulations shall be construed to prevent:*

1. A patron of a stand-alone bar, tavern or saloon from bringing food into the stand-alone bar, tavern or saloon for the patron’s own consumption.

2. An employee of a restaurant from delivering food to a stand-alone bar, tavern or saloon if the food has been packaged in a container and ordered by a patron of the stand-alone bar, tavern or saloon for the patron’s own consumption.

Sec. 12. *1. Any modification of an existing restaurant into a stand-alone bar, tavern or saloon with a physically segregated restaurant under the same roof or in the same building must first be approved by the health authority through the health authority's process for the review of plans. The modification approved by the health authority must provide for the ventilation system for the stand-alone bar, tavern or saloon to be independent of the ventilation system for the restaurant to prevent smoke infiltration into the restaurant.*

2. As used in this section, "physically segregated" means that smoking and nonsmoking areas must be separated by a complete partition or by solid doors which fit tightly, close automatically and remain closed except during use.

Sec. 13. *In addition to any other remedy allowed by law, the health authority may suspend or revoke any license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate issued by the health authority to an establishment which violates the provisions of NRS 202.2483 or sections 2 to 14, inclusive, of this regulation.*

Sec. 14. *1. A person who has reason to believe that an action taken by the health authority pursuant to sections 2 to 14, inclusive, of this regulation is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee of the health authority responsible for the action and the immediate supervisor of the employee.*

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the health authority for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the

health authority not later than 60 days after the date on which the health authority received the written request.

3. Except as otherwise provided in subsection 4, the determination of the health authority resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate issued by the health authority who is aggrieved by an action of the health authority relating to the denial of an application for or the renewal of such a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate or the suspension or revocation of such a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate may appeal that action in accordance with NAC 439.300 to 439.395, inclusive, after exhausting the informal procedures set forth in this section, except that the health authority may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.